

GAHC010019332016



undefined

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3875/2016

ABDUL MOTIN PRODHANI and 11 ORS.

S/O. LT. KOBAD HUSSAIN PRODHANI, FATHER OF KHOIMUDDIN PRODHANI.

2: SMTI. MEHBUBA BEGUM

D/O LT. MAHBUBAR RAHMAN PRODHANI GRAND FATEHR OF LT. KOBAD HUSSAIN PRODHANI

3: SMTI. MUSFIKA BEGUM

D/OLT. MAHBUBAR RAHMAN PRODHANI GRAND FATHER OF LT. KOBAD HUSSAIN PRODHANI

4: FULBOR SK.

S/O FOZLU SK. GRAND MOTHER OF LT. KHOIFUL BEWA

5: AMZALU SK.

S/O LT. GHOTABUDDIN SK. M/O LEGAL HEIR LT. KHOIFUL BEWA

6: ZAHIRUL HOQUE

S/OLT. GHOTABUDDIN SK. M/O LEGAL HEIR LT. KHOIFUL BEWA

7: ZAMILA BIBI

D/O LT. GHOTABUDDIN SK. M/O LEGAL HEIR LT. KHOIFUL BEWA

8: MONOWAR AHMED

D/O LT. GHOTABUDDIN SK. M/O LEGAL HEIR LT. KHOIFUL BEWA

9: PARVEZ ISLAM

S/O REZAUL ISLAM M/O LT. ANOWARA BEGUM GRAND MOTHER OF LT. KHOIFUL BEWA

10: SMTI. SHABANA SHABNAM ISLAM

D/O REZAUL ISLAM M/O LT. ANOWARA BEGUM GRAND MOTHER OF LT. KHOIFUL BEWA

11: SMTI. ROBINA SHABNAM ISLAM
D/O REZAUL ISLAM M/O LT. ANOWARA BEGUM GRAND MOTHER OF LT.
KHOIFUL BEWA

12: ZAMELA BIBI
M/O LEGAL HEIR LT. KHOIFUL BEWA
D/O LT. GHOTABUDDIN SK. W/O ABU BOKKAR MONDAL
VILL- HALLIDAGANJ
P.S. PHULBARI DIST. WEST GARO HILLS
MEGHALAYA
SL. NOS. 1

2 AND 3 ARE RESIDENT OF VILL- HATSINGIMARI

P.O. HATSINGIMARI
P.S. SOUTH SALMARA
DIST. SOUTH SALMARA MANKACHAR
HATSINGIMARI

ASSAM SL. NOS. 4 TO 8 ARE OF VILL and P.S. FEKAMARI
P.S. SOUTH SALMARA DIST. SOUTH SALMARA MANKACHAR
HATSINGIMARI

ASSAM. SL.NOS. 9 TO 11 ARE OF VILL - MANKACHAR
P.O. and P.S. MANKACHAR DIST. SOUTH SALMARA MANKACHAR
HATSINGIMARI

ASSAM. ALL THE ABOVE ARE REP. BY THE POWER OF ATTORNEY
NAMELY HAFIZUR RAHMAN PRODHANI S/O LT. MAHBUBAR RAHMAN
PRODHANI

VILL and P.O. HATSINGIMARI
P.S. SOUTH SALMARA DIST. SOUTH SALMARA MANKACHAR
HATSINGIMARI
ASSAM

VERSUS

THE STATE OF ASSAM AND 8 ORS
REP. BY THE COMM. and SECY. TO THE GOVT. OF ASSAM, REVENUE
REFORMS DEPTT., DISPUR, GHY.-781006.

2:THE DIRECRTOR OF LAND and REVENUE DEPARTMENT

ASSAM
RUPNAGAR
GUWAHATI-6.

3:THE DEPUTY COMMISSIONER
DHUBRI
P.S. and DIST. DHUBRI
ASSAM.

4:THE DEPUTY COMMISSIONER
SOUTH SALMARA MANKACHAR
HATSINGIMARI
ASSAM
PIN - 783135.

5:THE SETTLEMENT OFFICER
DHUBRI
ASSAM.

6:THE COMPENSATION OFFICER

DHUBRI
DIST.DHUBRI
ASSAM.

7:THE S.D.O. CIVIL
SOUTH SALMARA
MANKACHAR- SUB-DIVISION
HATSINGIMARI
DIST. SOUTH SALMARA
MANKACHAR
ASSAM
PIN - 783135.

8:THE SUB-REGISTRAR

HATSINGIMARI
DIST. SOUTH SALMARA
MANKACHAR
HATSINGIMARI
ASSAM
PIN - 783135.

9:THE ASSISTANT SETTLEMENT OFFICER

SOUTH SALMARA
MANKACHAR
HATSINGIMARI
P.O. HATSINGIMARI
DIST. SOUTH SALMARA
MANKACHAR
HATSINGIMARI
ASSAM, PIN - 783135

Advocate for the Petitioner : MR.Z HUSSAIN, MRSN BEGUM,MR.M HAQUE
Advocate for the Respondent : GA, ASSAM, SC, DLR

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

19-02-2026

Heard Shri Z Hussain, learned counsel for the petitioners. Also heard Shri S. S. Roy, learned State Counsel.

The instant application under Article 226 of the Constitution of India has been filed with the following prayer:

“In the premises aforesaid, it is most respectfully prayed that Your Lordships would be pleased to call for the records, issue Rule on the Respondents to show cause as to why a writ of Mandamus or any other appropriate writ, order or direction should not be issued to consider the case of the petitioners for payment of appropriate compensation amounting Rs 37,50,000/- Rupees Thirty Seven Lakhs Fifty Thousand only per Bigha as per statement of Zonal valuation prepared by the Deputy Commissioner, South Salmara Mankachar, Hatsingimari (Annx-9) to the petitioners along with attorney holder out of total land measuring 994 Bigha 2 Katha 18 Lecha in respect of compensation Case no III-1(M)/67 under Govt. Notification no. RRZ.212/66/39 dtd.3.4.1967 and to the petitioners no 1, 2, 3 and attorney holders out of total measuring 103 Bigha 3 Katha 18 Lecha in respect of compensation case no. III-2(M)/67 under Govt. Notification no. RRZ.212/66/39 dtd.3.4.67 under the Assam State Zamindari Acquisition Act, 1951 and cause or causes being shown and upon hearing the parties be pleased to make the Rule absolute and be pleased to pass such other or further, order or orders as to this Hon'ble Court may deem fit and proper.

AND

Pending disposal of the rule, there shall be no bar on the part of the respondent authority to pay the compensation amounting Rs 37,50,000/- Rupees Thirty Seven Lakhs Fifty Thousand only per Bigha as per statement of Zonal valuation prepared by the Deputy Commissioner, South Salmara Mankachar, Hatsingimari (Annx-9) to the petitioners along with attorney holders in connection with compensation case no III-

1(M)/67 under Govt. Notification No. RRZ.212/66/39 dtd.3.4.1967 and compensation case no. III-2M/66 under Govt. Notification No RRZ.212/66/39 dtd.3.4.1967 in the interest of justice.

And for this act of your kindness, the petitioners as in duty bound shall ever pray.”

A bare perusal of the prayer and the other averments would show that compensation for acquisition of land which was admittedly made in the year 1967 has been sought to be claimed by means of the writ petition filed in the year 2016.

This Court while considering this matter on 10.04.2023 has passed the following order:

“Heard Mr. Z. Hussain, learned counsel for the petitioners and Mr. R. Borpujari, learned counsel for the Revenue Department. The petitioners’ case is that the petitioners are the descendants of late Khoimuddin Prodhani, late Kobad Hussain Prodhani and late Khoiful Bewa, who were the owners of land measuring 1098 bighas, 1 katha, 16 lechas covered by two different Dags. The petitioners’ grievance is that while the land of the petitioners have been acquired in the year 1967 under the Assam State Acquisition of Zamindaries Act, 1951, no compensation for the same has been given to the petitioners or their father/grandfather mentioned above. The petitioners have relied upon the Letter dated 20.02.2019 issued by the office of the Deputy Commissioner, South Salmara Mankachar to show that assessment for payment of compensation for acquisition of land had been made in respect of Hatsingimari, Bhimapara and Fulerchar Pt. II, which is reflected in Annexure-A of the additional affidavit filed by the petitioners on 01.06.2022. On the other hand, Mr. R. Borpujari, learned counsel for the Revenue Department submits that the Letter dated 20.02.2019 issued by the office of the Deputy Commissioner, South Salmara Mankachar has not been accepted by the Government, vide Letter No. RRQ.1/2021/69 dated 30.03.2021 issued by the Deputy Secretary to the Government of Assam, Revenue & D.M (Reform) Department. On perusing the writ petition, the petitioners would have to justify as to

why the petitioners have approached this Court in the year 2016, while the land had been allegedly acquired in the year 1967, i.e. after 49 years. The petitioners will also have to give the dates of death of the late Khoimuddin Prodhani, late Kobad Hussain Prodhani and late Khoiful Bewa and explain why the above deceased persons have not made any claim for payment of compensation for their alleged acquired lands earlier. The affidavit made by one Hafizur Rahman Prodhani, who has been given the Power of Attorney by the petitioners shows that he is not one of the writ petitioners. There is nothing to show the dates of births of the writ petitioners and their relationship with the above 3 (three) persons. The above clarification is required to be made. The same would however not take away the fact that the maintainability of the writ petition due to delay and laches will also have to be decided. List the matter after 3 (three) weeks to enable the petitioners to file an additional affidavit. The petitioners should also bring on record the next of kin certificates to show that they are the kin of the above 3 (three) persons."

Though 3 (three) weeks time was granted to the petitioner to file an additional affidavit, almost 3 years had passed and no such affidavit has been filed.

Today, when the matter has been called upon, the learned counsel, Shri Hussain has made a prayer for adjournment. The said prayer however is rejected taking into view that almost 3 years has passed since the last order and no such affidavit has been filed.

This Court exercising powers under Article 226 of the Constitution of India is a Court of equity wherein the conduct of the party approaching this Court is of paramount importance.

In this case, claim for compensation has been made after about 50 years and there is also no basis for the assessment claimed by the petitioners. There is no explanation worth its name regarding the inordinate delay of about 50 years. The explanation that representation has been filed would not, by any

stretch of imagination extend the cause of action. It is a settled law that submission of representation would not, *per se*, extend the period of limitation.

Though the ***Limitation Act, 1963***, as such, may not be held to be applicable in a writ proceeding, the issue of laches would definitely be applicable. When a suit before the Civil Court is barred by limitation in a matter of this nature wherein the time prescribed is 3 years, in absence of any plausible and cogent explanation, this Court, being a Court of Equity cannot exercise the said jurisdiction. A Constitutional Bench of the Hon'ble Supreme Court in the case of ***State of MP Vs Bhailal Bhai*** reported in ***1964 0 AIR SC 1006*** has laid down as follows:-

“21. ... Learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a Civil Court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226 can be measured. The court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable ...”

On the aforesaid consideration, this Court is of the opinion that no relief can be granted in this writ petition and accordingly, the same is dismissed.

JUDGE

Comparing Assistant